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10 Attorneys for Plaintiff  
UNITED STATES OF AMERICA  
11

12 UNITED STATES DISTRICT COURT

13 FOR THE CENTRAL DISTRICT OF CALIFORNIA

14 UNITED STATES OF AMERICA,

15 Plaintiff,

16 v.

17 DURK BANKS, et al.,

18 Defendants.  
19

No. CR 2:24-621(B)-MWF

[PROPOSED] ATTORNEYS' EYES ONLY  
("AEO") PROTECTIVE ORDER REGARDING  
CERTAIN DISCOVERY

20 The Court has read and considered the parties' Stipulation for  
21 an Attorneys' Eyes Only ("AEO") Protective Order Regarding Certain  
22 Discovery (the "AEO Stipulation"), filed by the government and  
23 defendants in this matter, which this Court incorporates by  
24 reference into this order, and FOR GOOD CAUSE SHOWN the Court hereby  
25 FINDS AND ORDERS as follows:

26 1. Defendants previously stipulated to, and this Court  
27 entered, a protective order governing the use and dissemination of  
28 discovery containing (1) personal identifying information ("PII") of

1 real persons pursuant to Federal Rule of Criminal Procedure Rule  
2 16(d) (1), (2) medical information; (3) material that may contain  
3 information within the scope of the Privacy Act, and (4) information  
4 related to protected witnesses who participated in the government's  
5 investigation, who may testify at trial, and/or whose safety may be  
6 endangered by disclosure of identifying information. This  
7 Stipulation and Order is in addition to and supplements the  
8 previously filed protective order. (Dkt. 104.)

9       2. At defendants' request, the government has agreed to  
10 produce the following materials, which defendants agree will be  
11 covered by this Attorney's Eyes Only ("AEO") Protective Order: (1)  
12 digital data from co-defendants' and/or co-conspirators'  
13 devices/accounts (including extractions of cell phones); and (2)  
14 non-privileged recordings of jail calls and messages of certain  
15 co-defendants' and/or co-conspirators. An AEO Protective Order is  
16 necessary so that the government can produce to defense counsel  
17 these materials, while protecting sensitive information from  
18 unauthorized disclosure.

19       3. The purpose of the AEO Protective Order is therefore to  
20 allow the government to comply with its obligations pursuant to the  
21 Order while protecting sensitive information from unauthorized  
22 dissemination.

23       4. Accordingly, the discovery that the government will  
24 provide to defense counsel in the above-captioned case will be  
25 subject to this Protective Order, as follows:

26           a. As used herein, "AEO Materials" includes any  
27 extraction of a digital device and/or account information that does  
28 not belong to defendant (which in some cases may be a mirror image

1 of a device/account and include information that the government has  
2 not seized pursuant to a warrant), and any recordings of jail calls  
3 and messages of certain co-defendants' and/or co-conspirators.

4 b. "AEO Information" refers to any document or  
5 information containing AEO Materials that the government produces to  
6 the defense pursuant to this AEO Protective Order and any copies  
7 thereof.

8 c. The "AEO Defense Team" includes (1) defendants'  
9 counsel of record ("defense counsel"); and specific attorneys,  
10 paralegals, and/or investigators (i) whom defense counsel has  
11 identified to the government (ii) who have agreed in writing to be  
12 bound by the requirements of this AEO Protective Order provided to  
13 the government. The AEO Defense Team does not include the  
14 defendants, defendants' family members, any employees of defendants,  
15 any other associates of defendants, or anyone who has not signed  
16 this stipulation.

17 d. The government is authorized to provide defense  
18 counsel with AEO Information marked with the following legend:  
19 "ATTORNEYS' EYES ONLY ("AEO") -- CONTENTS SUBJECT TO AEO PROTECTIVE  
20 ORDER." The government may put that legend on the digital medium  
21 (such as DVD or hard drive) or simply label a digital folder on the  
22 digital medium to cover the content of that digital folder.

23 e. If defendants object to a designation that material  
24 contains AEO Information, the parties shall meet and confer. If the  
25 parties cannot reach an agreement regarding defendants' objection,  
26 defendants may apply to the Court to have the designation removed.

27 f. Defendants and the AEO Defense Team agree to use the  
28 AEO Information solely to prepare for any pretrial motions, plea

1 negotiations, trial, and sentencing hearing in this case, as well as  
2 any appellate and post-conviction proceedings related to this case.  
3 Defendants and the AEO Defense Team may lodge AEO Information in  
4 court accompanied by an ex parte application to file under seal  
5 and/or in camera, but may not file AEO Information on the public  
6 docket.

7           g. The AEO Defense Team shall not permit anyone other  
8 than the AEO Defense Team to have possession of AEO Information at  
9 any time. At no time, under no circumstance, will any AEO  
10 Information be shown to the defendants, or left in the possession,  
11 custody, or control of defendants, regardless of defendants' custody  
12 status. The AEO Defense Team shall not show, orally disclose, or  
13 share in any manner with any other individual or witness any AEO  
14 Information, including any family member of a defendant. The AEO  
15 Defense Team may orally disclose AEO Information with defendants,  
16 except for any information identifying the location or whereabouts  
17 of any protected witness of any family member of a protected  
18 witness, and any personal identifying information of any family  
19 member of a protected witness.

20           h. Defendants cannot see, review, copy, keep, maintain,  
21 summarize, memorialize, or otherwise possess any AEO Information.

22           i. The AEO Defense Team cannot review AEO Information  
23 with anyone, including but not limited to any witness(es) or  
24 potential witness(es). Before being shown any portion of AEO  
25 Information, any additional proposed members of the AEO Defense Team  
26 must be identified to the government, and be informed of, and agree  
27 in writing to be bound by, the requirements of the AEO Protective  
28 Order by the applicable defense counsel. No member of the AEO

1 Defense Team shall permit anyone to retain AEO Information or any  
2 notes generated from AEO Information.

3 j. The AEO Defense Team shall maintain AEO Information  
4 safely and securely, and shall exercise reasonable care in ensuring  
5 the confidentiality of those materials by (1) not permitting anyone  
6 other than members of the AEO Defense Team to see AEO Information;  
7 (2) not divulging to anyone other than members of the AEO Defense  
8 Team and defendants the contents of AEO Information; and (3) not  
9 permitting AEO Information to be outside the AEO Defense Team's  
10 offices or personal presence. AEO Information shall not be left  
11 unattended in any vehicle.

12 k. To the extent that the AEO Defense Team create notes  
13 that contain, in whole or in part, AEO Information, or to the extent  
14 that copies are made for authorized use by members of the AEO  
15 Defense Team, such notes, copies, or reproductions become AEO  
16 Information subject to the AEO Protective Order and must be handled  
17 in accordance with the terms of the AEO Protective Order.

18 l. The AEO Defense Team shall use AEO Information only  
19 for the litigation of this matter, which includes any appeal filed  
20 by defendants and any motion filed by defendants pursuant to 28  
21 U.S.C. § 2255, and for no other purpose but shall not file any AEO  
22 Information without first redacting such information or, in the  
23 event that a party needs to file AEO Information with the Court or  
24 divulge the contents of AEO Information in court filings, the filing  
25 should be lodged for filing under seal and/or in camera. If the  
26 Court rejects the request to file such information under seal and/or  
27 in camera, the party seeking to file such information publicly shall  
28 provide advance written notice to the other party to afford such

1 party an opportunity to object or otherwise respond to such  
2 intention. If the other party does not object to the proposed  
3 filing, the party seeking to file such information shall redact any  
4 AEO Information and make all reasonable attempts to limit the  
5 divulging of AEO Information.

6 m. The parties agree that any AEO Information  
7 inadvertently produced in the course of discovery prior to entry of  
8 the AEO Protective Order shall be subject to the terms of the AEO  
9 Protective Order. If AEO Information was inadvertently produced  
10 prior to entry of the AEO Protective Order without being marked  
11 "ATTORNEYS' EYES ONLY - CONTENTS SUBJECT TO AEO PROTECTIVE ORDER,"  
12 the government shall reproduce the material with the correct  
13 designation and notify defense counsel of the error. The AEO  
14 Defense Team shall take immediate steps to destroy the unmarked  
15 material, including any copies.

16 n. The parties agree that if any AEO Information  
17 contains both AEO Information and another category of Confidential  
18 Information pursuant to the previously entered protective orders,  
19 the information shall be handled in accordance with the AEO  
20 Information provisions of the AEO Protective Order.

21 o. AEO Information shall not be used by the AEO Defense  
22 Team, in any way, in any other matter, absent an order by this  
23 Court. All materials designated subject to the AEO Protective Order  
24 maintained in the AEO Defense Team's files shall remain subject to  
25 the AEO Protective Order unless and until such order is modified by  
26 this Court. Within 30 days of the conclusion of appellate and post-  
27 conviction proceedings, defense counsel shall return AEO Materials  
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1 to the government or certify that such materials have been  
2 destroyed.

3 p. In the event that there is a substitution of counsel  
4 prior to when such documents must be returned, new defense counsel  
5 must be informed of, and agree in writing to be bound by, the  
6 requirements of the AEO Protective Order before the undersigned  
7 defense counsel transfers any AEO Information to the new defense  
8 counsel. New defense counsel's written agreement to be bound by the  
9 terms of the AEO Protective Order must be returned to the Assistant  
10 U.S. Attorney assigned to the case. New defense counsel then will  
11 become the AEO Defense Team's custodian of materials designated  
12 subject to the AEO Protective Order and shall then become  
13 responsible, upon the conclusion of appellate and post-conviction  
14 proceedings, for returning to the government or certifying the  
15 destruction of all AEO Materials.

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1 q. Defense counsel agrees to advise all members of the  
2 AEO Defense Team of their obligations under the AEO Protective Order  
3 and ensure their agreement to follow the AEO Protective Order, prior  
4 to providing members of the AEO Defense Team with access to any  
5 materials subject to the AEO Protective Order. Defense counsel also  
6 agrees to explain to defendants that they are not permitted to see,  
7 review, copy, keep, maintain, summarize, memorialize, or otherwise  
8 possess AEO Information and Materials.

9 IT IS SO ORDERED.

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11 \_\_\_\_\_  
DATE

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HON. MICHAEL W. FITZGERALD  
UNITED STATES DISTRICT JUDGE

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13 Presented by:

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15 \_\_\_\_\_  
/s/  
IAN V. YANNIELLO  
16 GREGORY W. STAPLES  
DANIEL H. WEINER  
17 Assistant United States Attorneys  
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